

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

**UNITED STATES OF AMERICA,
Plaintiff,**

v.

**CRIMINAL ACTION NO. 3:05CR7
(BROADWATER)**

**ERNEST VAN CARR,
Defendant.**

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge David J. Joel, dated October 27, 2005. Neither party filed any objections to the Report. After reviewing the above, the Court is of the opinion that the Magistrate Judge's Report and Recommendation (Docket # 162) should be and is hereby **ORDERED** adopted.

The Court further **ORDERS**

1) that defendant's Motion to Dismiss Count One of the Indictment (**Docket # 109**) be DENIED for the reasons set forth in the Report and Recommendation;

2) defendant's Motion for Relief from Prejudicial Joinder (**Docket # 110**) be DENIED for the reasons set forth in the Report and Recommendation; and

4) Defendant's Motion to Dismiss Count Ten of the Second Superseding Indictment (**Docket # 133**) be DENIED for the reasons set forth in the Magistrate Judge's Report and Recommendation.

It is SO ORDERED.

The Clerk is directed to transmit true copies of this Order to all counsel of record herein
and the Honorable David J. Joel.

DATED this 4th day of January, 2006.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE